

F. JAMES SENSENBRENNER, JR., Wisconsin
CHAIRMAN

HENRY J. HYDE, Illinois
HOWARD COBLE, North Carolina
LAMAR S. SMITH, Texas
ELTON GALLEGLY, California
BOB GOODLATTE, Virginia
STEVE CHABOT, Ohio
WILLIAM L. JENKINS, Tennessee
CHRIS CANNON, Utah
SPENCER BACHUS, Alabama
JOHN N. HOSTETTLER, Indiana
MARK GREEN, Wisconsin
RIC KELLER, Florida
MELISSA A. HART, Pennsylvania
JEFF FLAKE, Arizona
MIKE PENCE, Indiana
J. RANDY FORBES, Virginia
STEVE KING, Iowa
JOHN R. CARTER, Texas
TOM FEENEY, Florida
MARSHA BLACKBURN, Tennessee

ONE HUNDRED EIGHTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-3951
<http://www.house.gov/judiciary>

November 18, 2004

JOHN CONYERS, JR., Michigan
RANKING MINORITY MEMBER

HOWARD L. BERMAN, California
RICK BOUCHER, Virginia
JERROLD NADLER, New York
ROBERT C. "BOBBY" SCOTT, Virginia
MELVIN L. WATT, North Carolina
ZOE LOFGREN, California
SHEILA JACKSON LEE, Texas
MAXINE WATERS, California
MARTIN T. MEEHAN, Massachusetts
WILLIAM D. DELAHUNT, Massachusetts
ROBERT WEXLER, Florida
TAMMY BALDWIN, Wisconsin
ANTHONY D. WEINER, New York
ADAM B. SCHIFF, California
LINDA T. SANCHEZ, California

The Honorable Bill Young
Chairman
Committee on Appropriations
U.S. House of Representatives
H-218 The Capitol
Washington, DC 20515

The Honorable David R. Obey
Ranking Member
Committee on Appropriations
U.S. House of Representatives
1016 Longworth House Office Building
Washington, DC 20515

The Honorable Ted Stevens
Chairman
Committee on Appropriations
United States Senate
S-128 The Capitol
Washington, DC 20510

The Honorable Robert C. Byrd
Ranking Member
Committee on Appropriations
United States Senate
S-125A Russell Senate Office Building
Washington, DC 20510

Dear Chairmen and Ranking Members:

We are writing in reference to reports that the conferees on omnibus appropriations legislation for fiscal year 2005 may be asked to include in legislation an amendment to a trademark law that violates our international obligations. Because such a provision would fall within the trademark law jurisdiction of the House and Senate Committees on the Judiciary under House Rule X(1)(k)(13) and Senate Rule XXV(1)(l)(15), respectively, we urge that you reject any proposal should it be made.

As you may be aware, section 211 of Public Law 105-277 prohibits federal courts from recognizing and enforcing rights in any trademark that is the same as or "similar to" a trademark that was used "in connection with" a business that was confiscated in Cuba. The World Trade Organization has held that parts of the law violate our international obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights ("TRIPs") because it allows U.S. nationals, but not foreign nationals, to acquire and enforce rights in such Cuban-origin trademarks.


There are reports that a proposal that purports to bring our laws into compliance with TRIPs is being suggested for inclusion into the omnibus without being vetted in the Judiciary Committees. It is important to note that the law that would be amended, section 211, is one that

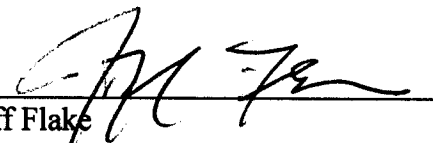
Messrs. Young, Obey, Stevens & Byrd
Page Two
November 18, 2004

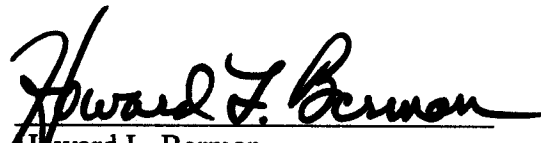
did not go through the committee process and, instead, passed into law as an appropriations rider. It would be unfortunate if the purported "fix" language also was not properly reviewed in the Judiciary Committees and also was held in violation of TRIPs. For these reasons, we urge you to reject any such proposal should it come before you.


We would appreciate your consideration of our request. If you have any questions or concerns, please feel free to contact us or our staffs.

Sincerely,


John Conyers, Jr.
Ranking Member
Committee on the Judiciary


Jeff Flake
Member
Committee on the Judiciary


Howard L. Berman
Ranking Member
Subcomm. on Courts, the Internet, and
Intellectual Property


William D. Delahunt
Member
Committee on the Judiciary

cc: The Honorable F. James Sensenbrenner, Jr.
Chairman
Committee on the Judiciary

The Honorable Lamar Smith
Chairman, Subcommittee on Courts,
the Internet, and Intellectual Property